IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.307 (MS) OF 2005

Sachindra Nath Sharma,
S/o Shri Surendra Nath Sharma,
R/o Village and Post Semro Bazar,
District-Lakhimpur, U.P. .....Petitioner.

Versus

1. The Vice Chancellor, Hemwati Nandan Bahuguna University, Sri Nagar.
2. Registrar (Examination), Hemwati Nandan Bahuguna University, Sri Nagar.
3. Examination Committee, Hemwati Nandan Bahuguna University, Srinagar. .....Respondents.

Dated: 02.08.2006

Hon'ble Rajesh Tadnon, J.

Heard Sri Lok Pal Singh, Advocate for the petitioner and Sri J.P. Joshi, Advocate for the respondents.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 17th December, 2004.

Briefly stated, the petitioner appeared in LLB first year examination from D.A.V. College, Dehradun affiliated with Hemwati Nandan Bahuguna University, Srinagar. He has passed the first year examination and got admission in second year course of LLB. In the second year examination of LLB in the year, 1990, the result of six papers were declared and the marksheet was issued in favour of the petitioner. Petitioner has obtained following marks:-

Marks obtained	**Paper**	**Paper**	**Paper**	**Paper**	**Paper**	**Paper**	**Result**
	VII	VIII	IX	X	XI	XII	Grand Total
Marks obtained	40	41	53	46	52	48	280

According to the petitioner, he has applied for revaluation of paper No. 10 on 16.08.1990 and paid the prescribed fees for the same. The result of the revaluation was declared in time and petitioner got admission in the IIIrd year of LLB with the permission granted to the petitioner by the respondent no. 2.

On the other hand, respondent has submitted that the petitioner has applied for paper No. 12 for the revaluation.

So far as the paper no. 10 is concerned, out of marks 46, in revaluation he was given marks to the extent of 55 and in paper no. 12, the marks were reduced to the extent of 37. The result of revaluation is quoted below:-

Question Paper	Before the Revaluation	Marks	After the Revaluation	Marks
Seventh	---	40	--	40
Eight	--	41	--	41
Ninth	--	53	--	53
Tenth	--	46	--	55
Eleventh	--	52	--	52
Twelth	--	48	--	37
	Failed	280	--	278

This Court on 10th August, 2004 passed the order for considering the representation. The grievance of the petitioner in the earlier Writ Petition No. 7523 (ms) of 2001 was also to the effect that the result of the third year examination has not been declared.

Accordingly, the representation was decided on 17th December, 2004 by which the result of the second year

examination was cancelled and so far as the third year is concerned, the same has been treated to be illegal.

The petitioner has submitted that in view of the fact that the marks have been reduced in paper No. 12. The same have not been done without proper intimating the petitioner. The marks which have already been obtained by the petitioner cannot be reduced to his disadvantage in his absence.

So far as the cancellation of second year examination is concerned, the petitioner has obtained the marks originally above the cut off percentage but thereafter it has been reduced and as such it will be desirable in the interest of justice that 12th paper may be examined in front of an expert of that paper and the petitioner may also be called at the time of the revaluation of the answer-sheet.

In case the marks remain the same, an opportunity shall be given to the petitioner for appearing in the compartmental examination according to rules and if the petitioner gets success in the compartmental examination, the result of the 3rd year may also be announced accordingly.

However, so far as the order dated 17th December, 2004 is concerned, the same is quashed with a direction to the respondent university to permit the petitioner to appear in the compartmental examination is accordance with the rules. In case the petitioner does not succeed in the 12th paper in the revaluation, after clearing the second year examination, the result of the 3rd year may be announced.

Subject to the aforesaid observations, writ petition is disposed of accordingly.

(Rajesh Tandon, J.)

02.08.2006
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